Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address
TWELVE OAKS MEDICAL CENTER
C/O HOLLAWAY & GUMBERT
3701 KIRBY DRIVE STE 1288
HOUSTON TX 77098-3926

Carrier's Austin Representative Box
#55

Respondent Name
FAIRFIELD INSURANCE CO

MFDR Date Received
OCTOBER 31, 2006

MFDR Tracking Number
M4-07-1322-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated October 30, 2006: "…Twelve Oaks Medical Center billed its usual and customary charges for its services. The total sum billed was $54,597.56…Per Rule 134.401(c)(6)(A)(i)(iii), once the bill has reached the minimum stop-loss threshold of $40K, the entire admission will be paid using the stop-loss reimbursement factor ('SLRF') of 75%...reimbursement for the entire admission including charges for items in (c)(4) is calculated by the stop-loss reimbursement factor stated in the ACIHFG, i.e., 75%. Furthermore, separate reimbursement for items listed under Rule 134.401(c)(4) is improper and illegal when the amount of the claim is $40,000.00 or greater… the fees paid by CCMSI do not conform to the reimbursement section of Rule 134.401…it is the position of Twelve Oaks Medical Center that all charges relating to the admission of [Claimant] are due and payable as provided for under Texas law and the Rules of the Division, as currently adopted and published at 28 TAC §134.400, *et seq*."

Requestor's Supplemental Position Summary Dated November 10, 2006: "Pursuant to DWC Rule 133.307(g)(3), please find enclosed the affidavit concerning cost and necessity of services signed by Darlene Crawford that is relevant to the medical care and treatment provided to [Claimant] at Twelve Oaks Medical Center, which was inadvertently omitted from the documentation submitted in our original request for MDR packet dated October 30 2006."

Amount in Dispute: $31,572.97

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated November 21, 2006: "This dispute involves payment of an in-patient surgical hospital bill. The carrier paid a total reimbursement of $6091.10 on the provider's billed charges of $54,597.56. The Provider's position is that the Carrier failed to pay 75% of total charges. It is the Carrier's contention that the payment method is at issue, and consequently the hospital must show it is entitled to payment pursuant to the stop-loss provision…Under subsection (c)(6), the stop-loss method is described as an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for **unusually costly services** rendered during treatment to an injured worker. Again, under subsection (c)(6)(A)(ii), the stop-loss threshold is established to ensure compensation for **unusually extensive services** required during an admission. Therefore, unless a hospitalization involved unusually costly or extensive services, it would be reimbursed under the per diem method. The Provider herein has not shown that to be the case…"

Response Submitted by: Parker & Associates, LLC

Respondent's Supplemental Position Summary Dated November 29, 2011: "This dispute involves payment of an in-patient surgical hospital bill. The carrier paid a total reimbursement of $6091.10 on the Provider's billed charges of $54,597.56. This bill did not meet the criteria for stop-loss reimbursement, as the procedure was not unusually costly or extensive. Consequently, the Carrier reimbursed the Provider based on the surgical per diem multiplied by the overnight inpatient stay plus reimbursement of the implantables at cost plus 10%. Services provided during this hospital stay were not unusually extensive…Only one operation occurred, with only one use of the surgical theater and associated equipment. Although the single surgery consisted of four separate procedures, these procedures were planned from the beginning and not the result of any complications during the surgery. The surgery lasted just over four hours, with no complications per the operative report, and the Claimant was released home three days later. Consequently, this surgical admission does not qualify for reimbursement under the stop-loss provision of Rule 134.401…"

Response Submitted by: Parker & Associates, LLC

Respondent's Supplemental Position Summary Dated February 14, 2013: "The Requestor seeks additional reimbursement under the Acute Care Inpatient Hospital Fee Guidelines. The Requestor has invoked the Stop-Loss provision of Rule 134.401 and seeks additional reimbursement in the amount of $31,572.97 for a two-day stay…The Requestor has failed to justify its significant costs associated with the inpatient stay and the excessive costs of its implants and durable medical equipment. The Requestor has failed to show that its charges were usual and customary…The audited charges did not meet the $40,000.00 threshold. The Requestor has failed to provide objective medical documentation to support any argument that the services were unusually extensive or costly. The minimum Stop-Loss Exception threshold was not met and the Requestor failed to show that the surgery was unusually costly or extensive. Therefore, it has failed to meet the Stop-Loss criteria and no additional reimbursement is warranted….The Requestor has failed to explain how it supports its charges or its request seeking additional reimbursement. The Requestor has failed to demonstrate that it billed its usual and customary charges for this stay, as instructed by Rule 134.401(b)(2)(A). Respondent paid a fair and reasonable rate in accordance with the Fee Guidelines."

Response Submitted by: Christopher J. Ameel, PLLC

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
November 4, 2005 through November 5, 2005	Inpatient Hospital Services	$31,572.97	$570.96

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 27 *Texas Register* 12282, applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
3. 28 Texas Administrative Code §134.1, 27 *Texas Register* 4047, effective May 16, 2002, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- 11 – THE DIAGNOSIS IS INCONSISTENT WITH THE PROCEDURE.
- 42 – CHARGES EXCEED OUR FEE SCHEDULE OR MAXIMUM ALLOWABLE AMOUNT.
  169 – REIMBURSEMENT BASED ON RATIO, PERCENTAGE OR FORMULA SET BY STATE GUIDELINES.
- PPO REDUCTION: First Health P&T The charges have been priced in accordance to a First Health owned network.

- 1014 – THE ATTACHED BILLING HAS BEEN RE-EVALUATED AT THE REQUEST OF THE PROVIDER. BASED ON THIS RE-EVALUATION, WE FIND OUR ORIGINAL REVIEW TO BE CORRECT. THEREFORE, NO ADDITIONAL ALLOWANCE APPEARS TO BE WARRANTED.
- 1237 – THE PPO REDUCTION IS BASED ON A CONTRACT HELD WITH THE FIRST HEALTH INSTITUTIONAL PPO NETWORK AND YOUR FACILITY.

Issues

1. Did the audited charges exceed $40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed $40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The supplemental information was shared among the parties as appropriate. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges ***in this case*** exceed $40,000; whether the admission and disputed services ***in this case*** are unusually extensive; and whether the admission and disputed services ***in this case*** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection…" 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states "to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed $40,000, the minimum stop-loss threshold." Furthermore, (A)(v) of that same section states "Audited charges are those charges which remain after a bill review by the insurance carrier has been performed." Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal $54,597.56. The division concludes that the total audited charges exceed $40,000.

2. The requestor in its position statement presumes that it is entitled to the stop loss method of payment because the audited charges exceed $40,000. As noted above, the Third Court of Appeals in its November 13, 2008 opinion rendered judgment to the contrary. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed $40,000 and that an admission involved…unusually extensive services." The requestor failed to demonstrate that the particulars of the admission in dispute constitute unusually extensive services; therefore, the division finds that the requestor did not meet 28 Texas Administrative Code §134.401(c)(6).

3. In regards to whether the services were unusually costly, the requestor presumes that because the bill exceeds $40,000, the stop loss method of payment should apply. The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must ***demonstrate*** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The requestor failed to demonstrate that the particulars of the admission in dispute constitutes unusually costly services; therefore, the division finds that the requestor failed to meet 28 Texas Administrative Code §134.401(c)(6).

4. 28 Texas Administrative Code §134.401(b)(2)(A) titled General Information states, in pertinent part, that "The basic reimbursement for acute care hospital inpatient services rendered shall be the lesser of:
   (i) a rate for workers' compensation cases pre-negotiated between the carrier and the hospital;
   (ii) the hospital's usual and customary charges; and
   (iii) reimbursement as set out in section (c) of this section for that admission

   In regards to a pre-negotiated rate, the services in dispute were reduced in part with the explanation "THE PPO REDUCTION IS BASED ON A CONTRACT HELD WITH THE FIRST HEALTH INSTITUTIONAL PPO NETWORK AND YOUR FACILITY." No documentation was provided to support that a reimbursement rate was negotiated between the workers' compensation insurance carrier Fairfield Insurance and Twelve Oaks Medical Center prior to the services being rendered; therefore 28 Texas Administrative Code §134.401(b)(2)(A)(i) does not apply.

   In regards to the hospital's usual and customary charges in this case, review of the medical bill finds that the health care provider's usual and customary charges equal $54,597.56.

   In regards to reimbursement set out in (c), the division determined that the requestor failed to support that the services in dispute are eligible for the stop-loss method of reimbursement; therefore 28 Texas Administrative Code §134.401(c)(1), titled Standard Per Diem Amount, and §134.401(c)(4), titled Additional Reimbursements, apply. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.

   - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of $1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission." The length of stay was one day. The surgical per diem rate of $1,118.00 multiplied by the length of stay of one day results in an allowable amount of $1,118.00.

   - 28 Texas Administrative Code §134.401(c)(4)(A), states "When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274)." Review of the requestor's medical bill finds that the following items were billed under revenue code 278 and are therefore eligible for separate payment under §134.401(c)(4)(A):

   - The Division finds the total allowable for the implants billed under revenue code 278 is:

Description of Implant per Itemized Statement	Quantity	Cost Per Unit	Cost + 10%
WAX Bone 2.5gms	1	$50.05	$55.06
BN GRFT BMP LG	1	$4,990.00	$5,489.00
TOTAL			$5,544.06

   - 28 Texas Administrative Code §134.401(c)(4)(C) states "Pharmaceuticals administered during the admission and greater than $250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time." A review of the submitted itemized statement finds that the requestor billed $272.00/unit for Gelfoam 100 and $329.00/unit for Vancomycin 1GM. The requestor did not submit documentation to support what the cost to the hospital was for these items billed under revenue code 250. For that reason, additional reimbursement for these items cannot be recommended.

   The total reimbursement set out in the applicable portions of (c) results in $1,118.00 + $5,544.06, for a total of $6,662.06.

Reimbursement for the services in dispute is therefore determined by the lesser of:

§134.401(b)(2)(A)	Finding
(i)	Not Applicable
(ii)	$54,597.56
(iii)	$6,662.06

The division concludes that application of the standard per diem amount and the additional reimbursements under §134.401(c)(4) represents the lesser of the three considerations. The respondent issued payment in the amount of $6,091.10. Based upon the documentation submitted, additional reimbursement of $570.96 can be recommended.

Conclusion

For the reasons stated above, the division concludes that the services in dispute are not eligible for the stop-loss method of reimbursement, that a pre-negotiated rate does not apply, and that application of 28 Texas Administrative Code §134.401(c)(1), titled *Standard Per Diem Amount,* and §134.401(c)(4), titled *Additional Reimbursements*, results in the total allowable reimbursement. Based upon the documentation submitted, the requestor's Table of Disputed Services, and reimbursement made by the respondent, the amount ordered is $570.96.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $570.96 plus applicable accrued interest per 28 Texas Administrative Code §134.803, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	05/10/2013 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.